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MONTANA STATE LIBRARY  
1515 E. 6th AVE  
HELENA, MONTANA 59601

## FEDERAL MANDATES



SB 167, Chapter 385, *Laws of 1995*, requires that state programs meet the requirements of federal statutes in good faith and with a critical view toward any federal regulations, guidelines, or policies, with due consideration of the financial restraints of local governments, the citizens of Montana, and the state, including the limitation imposed by Article III, section 9 of the Montana Constitution.

The act also requires each state agency that is charged with implementing federal mandates to begin providing information regarding the cost of the federal mandates. The table which follows is a significant step in identifying the most costly and burdensome federal mandates to the State of Montana. There are many others not listed due to lack of research resources.

A few of the most costly mandates already have been repealed as a result of the federal Unfunded Mandates Reform Act of 1995, P.L. 104-4, which requires three new activities: Congressional Budget Office cost estimates with a point of order procedure against new mandates costing over \$50 million; agencies cost-benefit analyses of new regulations that cost over \$100 million; and a study of existing mandates by the Advisory Commission on Intergovernmental Relations (ACIR). For the most part, the act appears to be fulfilling its goal. Unfunded mandates now are questioned on a regular basis in Congress and there are only a few new regulatory mandates.

Many of the items on the table below were submitted by the Governor's Office and included in the study of existing mandates completed by ACIR. This study identified more than 200 mandates and highlighted fourteen that are most burdensome nationwide. As expected, the most costly existing unfunded mandates concern the environment, labor relations, and health care. In addition to the following list, the Executive Branch recommended bills were drafted, and a number of new proposal budget recommendations were developed, with a view to reducing regulatory burdens and creating cost savings.

The Most Costly and Burdensome Federal Mandates  
As Reported by Montana State Agencies for the 1997 Legislature

Agency	Description of the Mandate and Reference	One-Time Only or Annual Cost (In Millions)
DOLI	Veterans' Services Performance Standards	unknown
	JTPA Performance Standards (P.L. 97-300 Secretary's standards)	unknown
	JTPA lack of flexibility	none
	Determining Allowable Costs (OMB A-87 and 29 CFR 97)	unknown
	Cash Management Improvement Act effect on UI (P.L. 101-453 and 102-589)	0.03
	Fair Labor Standards Act -- see also DOA	unknown
DOA	Fair Labor Standards Act (29 CFR 541)	1.50
	Cash Management Improvement Act	unknown
	Statewide Cash Allocation Plan (SWCAP)	unknown
DOT	Delays due to Conformity of Transportation with air quality (40 USC 176(c))	0.05
	Value Engineering & Life Cycle Costs PROSPECTIVE (59 Federal Register 59182, Nov. 16, 1994)	2.00
	Omnibus Trade & Competitiveness Act of 1988 Metrification (P.L. 100.418 Section 5164)	20.00
	Modified Eccentric Loader Terminal "MELT" (Fed Highway Administration mandate)	17.50



	Drug & Alcohol Testing EBT device standards (49 CFR Part 40)	0.04
	Control of Outdoor Advertising (23 USC Section 131 and 23 CFR Ch. 1, Sec. 750) \$16M threat	unknown
	Clean Water Act Permit Conditions (33 USC Section 1251-1376, 33 CFR Part 330 Appendix A)	unknown
DPHHS	Boren Amendment (42 CFR 447.253)	10.00
	Medicaid EPSDT services outside State Plan (42 CFR 441 SubPart B)	unknown
	Medicaid Limited Sanctions against Recipients (various regs)	unknown
	Medicaid Flexibility in Cost Sharing (42 CFR 447)	unknown
	Medicaid program responsibility, e.g. IHS (various regs)	2.00
	PASARR [Preadmission screening & annual resident review] (42 CFR Part 483)	0.12
DPHHS - CSE	Four Child Support Enforcement Mandates (45 CFR 302.33, 303.8(c)(4), 303.11, 303.21)	0.45
	Title IV-D definition of "state" excludes Tribal Services (42 USC 1301(a))	unknown
FWP	National Historic Preservation Act Section 106 (36 CFR 800 and 16 USC Section 470(f))	0.10
	Land & Water Conservation Act interpretation (Part 522, USF&W Service Manual, Sect. 7.7.b and 16 USC Section 4601-8(f)(1))	1.00
	Recreational Boating Safety Act (46 USC Section 13102(a)(3) and 13103(a)(3))	unknown
	Farmland Protection Policy Act (7 CFR 658 and 7 USC 4202(a))	unknown
	Section 504 of the Rehabilitation Act of 1973 vis-a-vis Americans with Disabilities Act	unknown
	Resource Conservation and Recovery Act (Fed admin reg)	0.008
DEQ	Federal Clean Air Act Case-By-Case MACT Air Toxics (FCAA Section 112(j))	0.02
	Federal Clean Air Act Accidental Release (FCAA Section 112(r))	unknown
	Whole Effluent Toxicity (WET) Testing (CWA P.L. 92-500 Section 101(a)(3) & 40 CFR 122.21(j)(I))	0.05
	1986 Amendments to Safe Drinking Water Act (42 USC 300f and 40 CFR 141, 142))	unknown
	Storm Water Provisions of Clean Water Act (40 CFR 122, 123, 124)	0.43
LONG RANGE BLDG	Environmental Hazard requirements	0.36
DNRC	Wastewater Treatment Revolving Fund (P.L. 82-500 Federal Clean Water Act as amended 33 U.S.C., 1251-1387)	30.00
	Arbitrage Calculation - IRS Code - Treasury Regulations Section 1.148-2(b)	0.03
	Federal Safe Drinking Water Act - Title XIV of Public Health Service Act as amended 42 U.S.C. 300f, et. seq.	25.00
	Federal Agriculture Improvement and Reform Act of 1996 (Farm Bill) Title III	unknown
HISTORICAL SOCIETY	Historic Sites Preservation ( P.L. 15.904)	0.67
LIVESTOCK	Disease Control St./Fed/Co-op Fed Catalog No. 10-025	0.02
	Meat/Poultry Inspection - Meat Inspection Fed Catalog No. 10.025	0.27
	Centralized Services - Indirect M/INS - Fed Catalog No. 10.025	0.02



	Milk & Egg Inspection - Shell Egg - Fed Catalog No. 10.477	0.02
STATE AUDITOR	Kennedy-Kassebaum bill Securities Investment Promotion Act of 1996 - Cost and Revenue Neutral for three years	unknown 0
STUDENT FINANCIAL AID	Student Right to Know and Campus Security Act (P.L. 101-542) Title IV withdrawal refund Taxation of tuition fee waivers Federal student aid disbursement (Fed admin reg) Perkins Student Loan Program (Fed admin reg) Student assistance general provisions (Fed admin reg) Family Parent Loan Program (Fed admin reg) Health Omnibus Program Extension of 1988 (P.L. 100-607) Equity in Athletics Disclosure Act (Fed admin reg) Cost accounting standards and disclosure statement requirements (Fed admin reg) 30 day delay disbursement (Fed admin reg) Bankruptcy Law in regard to student financial aid Repayment and collection of nursing student loans (Fed admin reg) Title IV, crediting a student account (Fed admin reg) Withholding tax on nonresident aliens Repayment and collection of student loans	0.156 unknown unknown unknown 0.001 unknown 0.004 unknown unknown 0.01 unknown unknown unknown unknown unknown unknown
OTHER AGENCIES	Fair Labor Standards Act overtime provisions OMB Circular A-110 required cost analysis for procurement actions ADA Self Regulation Project (Fed admin reg) Hazardous Waste Disposal (Fed admin reg) SARA Title 3, Reporting Hazardous Material (Fed admin reg) Clean Water Act, sewage discharge regulations Asbestos Abatement Regulations (Fed admin reg) ADA Elevator Regulations (Fed admin reg)	unknown unknown unknown unknown unknown unknown unknown
PUBLIC SCHOOLS	Individuals with Disabilities Education Act - Categorical labeling Individuals with Disabilities Education Act - Supplement not supplant requirement Individuals with Disabilities Education Act - Federal distribution based on child count Individuals with Disabilities Education Act - Funding commitment	unknown unknown unknown unknown

